

JEFFERSON COUNTY COMMISSIONERS
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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
September 16, 2008**

Present: Commissioners Lythgoe, Notbohm and Weber; Bonnie Ramey, Clerk and Recorder; Mike Hoffman, County Planner; Garry Pace, Superintendent of Schools; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Dave Kirsch, Jim Connole, Caroleen Vaughan, Ellen Rae Thiel, Devin and Mandy Ard, Joe Schmaus, Richard Schmaus

MINUTES

Commissioner Weber moved to approve the minutes of August 12, 2008. Commissioner Lythgoe seconded. The motion carried.

Commissioner Weber moved to approve the minutes August 19, 2008. Commissioner Notbohm seconded. The motion carried.

Commissioner Weber moved to approve the minutes August 26, 2008. Commissioner Notbohm seconded. The motion carried.

REPORTS

Receipt of August cash report from the Treasurer.

Receipt of school budgets from Garry Pace, which were signed by the Commission Chair.

CALENDAR REVIEW

9/16 JLDC annual meeting – Whitehall – 6:00
9/17 Elkhorn Mine Citizens Advisory group – 10:00
9/18 Clancy library sub-committee meeting – 6:00

COMMISSION REPORTS

September 16, 2008 minutes.wpd

PRESERVE AMERICA

Commissioner Lythgoe stated that he got a call from Larry Gallagher with HUD in Helena. He is the state and regional coordinator for Preserve America. John Carson, who is the Regional Director for HUD from Denver, will be through on the 22nd to make a presentation to Butte. He noted that we are a Preserve America County, and was wondering if there was something that he could look at while he is here. Commissioner Lythgoe stated that he called Tara, and she is getting in touch with several members of JLDC who will possibly take him through several of the buildings at MDC.

TRI-CO FIRE

Commissioner Lythgoe stated that he attended a Tri-Co fire meeting on Thursday. They discussed the bug kill in the area. They had a report from the Helena National Forest, and of the 1 million acres, over 400,000 acres are infected, and they figure it will be 650,000 by next year. The City of Helena is going to be getting aggressive with the bug kill on Mount Helena. The Forest Service is going to try to bring some of the special-interest groups together to try to find some common ground where the Forest Service can do some logging without ending up in court. There are some health, safety, welfare issues to address.

ELKHORN WORKING GROUP

Commissioner Lythgoe reported that had a meeting with the Elkhorn Working Group on Thursday afternoon. Bug kill was also the topic of discussion at that meeting. This is something everyone is talking about, but no one knows what to do. There are some places that have fought this aggressively, and it hasn't made a difference. Commissioner Lythgoe stated that he was surprised to learn that depending on the tree, there is some marketable value for up to five years. However, no matter how long it has been there, it is still marketable for pulp. They are setting up a railroad spur in Helena to start shipping pulp trees by rail.

MINING SUMMIT

Commissioner Weber stated that he left the last meeting a little early to attend a mining summit in Butte. He sat on a panel discussion, which included Tim Dimick from Golden Sunlight, Tim Smith from Montana Tunnels, Shane Parrow from Elkhorn Mine, Scott Mendenhall, Tara Mastel, and Tom Harrington. He believes that the discussion and possibly the entire summit was taped and hopefully will become available at some point.

CTAC

Commissioner Weber reported that he attended a CTAC meeting on the 11th. The mine is still going strong. They have started some of their lay-back at the same time they are doing milling. They are milling some of their stockpiles and bringing in ore from elsewhere also. The mill is slated to be open at least through January or February.

FOREST SERVICE ROAD AGREEMENT

Commissioner Weber reported that on the 11th he went to the Forest Service in Butte to meet with their right-of-way person and Leland and Marion Johns. There is a county road that the Forest

Service purchased a right-of-way on from the previous owners, and the Johns' would like to move the road to the edge of their property and get the Forest Service to move another road they have right-of-way on outside of their property. It was agreed during the meeting that the movement of the road to the edge of their property is a good idea; it was not decided who would move the road and how it is going to happen wasn't decided. This all goes back to something Sam Samson worked on in 2002. The County committed to helping them move the road at that time.

MSTI PUBLIC MEETINGS

Commissioner Weber reported that from there he went to Dillon for the MSTI public meeting regarding the 500 Kv line, part of which would go through Jefferson County. He stated that it was a good meeting, and he learned a lot. DEQ is looking towards an EIS and are developing that. If anybody has a desire to comment on it, now is the time to do it. Comments need to be in before the middle of next month. Commissioner Lythgoe stated that they decided at the last meeting that it would be a good idea to have a night meeting. Commissioner Weber stated that we need to do that soon.

CORRESPONDENCE

The Commission received from BLM the proposed Butte resource management plan and final EIS. This will be sent to Tammy Johnson for comment.

The Commission received the annual agreement from DPHHS. The agreement addresses the determination of public assistance benefit eligibility for various programs in local offices of public assistance. The contract was signed and will be returned.

SUBDIVISION REVIEW

FINAL PLAT REVIEW – AMENDED PLAT, LOT 5, ARD MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this one-lot split located south of Whitehall. The parcel contains 20 acres and is proposed to be split into two lots, each containing 10 acres. Mike recommended that final plat approval be granted.

Commissioner Notbohm moved to grant final plat approval to the Ard minor subdivision. Commissioner Lythgoe seconded. The motion carried.

REQUEST TO AMEND PRELIMINARY PLAT – DEER RUN MINOR SUBDIVISION

Mike Hoffman presented an amended preliminary plat recommendation for the Deer Run minor subdivision. The parcel contains 10.04 acres, proposed to be split into five lots ranging from 1.72 to 2.33 acres in size. A conditional use permit was granted by the Board of Adjustment on August 19, 2008, to allow for five lots rather than four. The proposed change was reviewed and

approved by the Planning Board on September 10, 2008. The conditions of approval have not been changed as a result of the changes. A \$1,000 per lot voluntary contribution to the Montana City School and \$1,422.72 cash-in-lieu of water storage payment will be given to the Montana City Volunteer Fire Department. Mike recommended that the Commission approve an amendment to the preliminary plat to allow for five lots. Commissioner Weber asked about the one-year time frame, if they are still on the clock from the original approval, or does this re-start the clock. Mike stated that he believes that accepting the amendment to change to five lots would re-start the clock.

Commissioner Lythgoe moved to approve amended preliminary plat recommendations for the Deer Run minor subdivision, with the caveat that the year time limit starts today. Commissioner Notbohm seconded. Commissioner Weber stated that he got a call from Joe Carter earlier in the day, and he is supportive of this going forward. He has an engineered road plan and compaction tests. Commissioner Weber stated that on a personal note, he would like to thank the developer for the contribution to the school. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

ADOPT FINAL BUDGET

Bonnie stated that at the previous budget hearing, the Commission made two changes, a change to the county agent, which will save the County \$17,349 in the economic development fund. If all anticipated funds come in, we will have \$246,517 in that account. There was also a revision to the economic development payroll for Tara Mastel, which will increase that budget \$810.68. They also had a request to change the proposed budget for Solid Waste which has decreased that budget by \$47,851.52. The other change that is to be discussed by the Commission is a proposal to increase the Museum Board personnel position. Bonnie said that she ran numbers for a quarter, half, three-quarter and full-time position. The current budget that was in the preliminary budget was \$17,390. Should they choose to implement the quarter-time position, it would increase the budget to \$20,547.58. Should they choose to implement the half-time position, it would increase the budget to \$32,783.02. A three-quarter-time position would increase the budget to \$43,412.03, and a full-time position would increase it to \$54,041.05. Commissioner Weber stated that the Commission received some e-mails related to this, and he read e-mails from Al Stoner, Jennifer Pryor, Rochelle Hesford and Deb Gabse (on file in the Clerk and Recorder's office). All were supportive of increasing the budget for the museum.

Bonnie stated that she would remind the Commission that in their discussion of the museum funding, they will need to decide how to fund it. The county is currently at their maximum mills. There are no additional mills to give them, unless they choose to cut some from somewhere else. Commissioner Lythgoe asked if the current budget reflects the \$14.81 pay grade. Bonnie stated that when they left the meeting last week, they were under the impression that a job description had been developed, but this is not the case. She got with the Personnel Officer and they came up with their best guess. She feels that they are in the ballpark. The amount in the current budget reflects the \$10/hour that the director has been paid.

Commissioner Weber asked if it is the Commission's pleasure to deal with the museum personnel item first. This seems to be the biggest item that is open for discussion.

Commissioner Weber noted that he got a call from Bob Marks who is concerned that budget cuts were not looked at hard enough. When Bob was an administrator at the state, he always asked his department heads and budget developers to look for a 15% decrease before the numbers were given to them. He is not sure about a mill levy for public safety, and that the Commission isn't being as open as they could be with the public as to where the money would go. He felt that it was trying to get relief for the general fund rather than fund the public safety. Commissioner Weber stated that he assured Bob that the money would all go to public safety and that they would try to educate the public as to their intentions between now and the election.

Commissioner Lythgoe stated that to be totally frank in this discussion, if a mill levy were to pass for the sheriff office, it would free up some money. We currently PILT approximately \$100,000 to the sheriff's office. If the mill levy passed, it would free up that PILT to possibly be used elsewhere, but all of the money that the mill levy would bring in would be used for public safety. He would also add that we did make some cuts with the departments, some pretty significant cuts to get to this budget. Commissioner Weber stated that it might be beneficial to keep track of those percentages that are cut in the future; it might be a good exercise to do to show the public that we are looking at budget cuts.

Commissioner Notbohm stated that regarding what Commissioner Lythgoe said, when Commissioner Lythgoe made his recommendations for budget cuts, the public safety mill was discussed. Commissioner Notbohm stated that what Craig was asking for is another deputy and related equipment, which would amount to around \$100,000. The rest of the money could possibly come back to the general budget for monies that are paid to him out of that. The fact of the matter is that he would get whatever the mill would allow for, but the rest of the money would come to the general budget. Commissioner Weber stated that it also includes other equipment that hasn't been purchased – video cameras, GPS units, more vehicles, as well as some facility issues at the detention center. The mill would not be to fund just one deputy, but would cover other things that are either new or maintenance-type issues. Last year when they cut Craig's budget, it was with the understanding that if the showers were to fail, we would have to come up with the funds to repair them. The mill would address quite a few other things than just the one deputy. Commissioner Notbohm stated that he wasn't involved in any of those conversations with Craig. In generalities, they need to watch it a bit, as Craig is already getting a \$1.7 million budget; it is getting up there. Commissioner Weber stated that the population is increasing. He noted that Craig recently told them that the Sheriff's Office fielded 4,400 call last year; this year to date they have fielded 4,000 calls, not including Whitehall. They will probably pass last year's number of calls this month. The increased population, the increased traffic through Jefferson County all adds up to increased crime unfortunately, and increased demand on that department. This also affects search and rescue and other functions that Craig oversees. It does increase the budget, but the need is there. Commissioner Lythgoe stated that personally, he is hoping that some money comes back to the general fund, but it may not. He is at least hoping to be able to get the PILT back.

Commissioner Weber turned the discussion to the museum request. Commissioner Lythgoe stated that one thing that Bonnie indicated is that we would have to make some cuts elsewhere if we are going to fund the museum request. Commissioner Weber stated that we don't necessarily have to make some cuts; it could come from the cash reserves, or economic development. Commissioner Notbohm stated that he remembers that the money would come from economic

development if needed. Commissioner Weber called for comment on this item.

Caroleen Vaughan asked if any of the board members held a meeting to discuss a change to the budget. Commissioner Weber stated that he is not aware of any meeting for that purpose. Caroleen asked if this restricts the board to using that money only for personnel. Commissioner Weber stated that the money within a fund can be transferred within the fund from line item to line item. The exception is personnel, which needs Commission approval to transfer. Caroleen stated that as the Commission is well aware, this board is basically in shambles, and they have had significant issues which have necessitated the input of the Commission, the Personnel Officer and the County Attorney. The Board held a meeting to discuss the mill levy. At that meeting, they decided that they were not anywhere near being ready to post for a mill levy. The next day, Sherry Lindsey Carlson came before the Commission to request that mill levy. Commissioner Weber stated that this is correct. Caroleen asked what had changed since then, as they have not had a board meeting. Commissioner Weber stated that nothing has changed. The question of whether this position will go to quarter, half, three-quarter or full-time has not been decided. The issue before the Commission at this time is whether we budget money anticipating that happening. The posting is not happening as of today, the job is not happening as of today, but what they have to decide is if they will put money into that line item anticipating that happening. Caroleen asked if it wouldn't be more appropriate for the entire board to vote on this and make a request rather than one individual board member write the Commission a letter, because there have been meetings held where she has not been able to get through what she wants to get through. Commissioner Weber stated that this isn't a personnel matter; it's whether the county wants to budget and have money set into that budget in anticipation of funding something; not whether a person is going to be hired or that job is necessarily going to be performed but whether we anticipate needing that money during the year.

Commissioner Notbohm asked if one of these were approved, the job would have to be posted. Commissioner Weber stated that this is correct. Caroleen stated that the resolution setting up the board states that the board alone has supervisory responsibility over staff, so by doing this the Commission would be usurping the board's responsibilities. The Commissioners stated that this is incorrect. Commissioner Weber stated that personnel for the County is handled through the county's personnel office. Supervisory and hiring/firing isn't something that they willingly give away responsibility for. All personnel discussions and decisions are made through the personnel office and the Commission. Supervisory in that relationship means that board members would decide a direction for the board to go in, a direction that you want to see the museum working towards, and as an employee of the county, working in that function, that person in that job would be implementing those decisions that the board wants to see the museum working towards. It is ultimately up to the Commission to approve the direction however.

Commissioner Lythgoe stated that there may have been some missteps by this board, but to say that the board has been moving in a wrong direction is incorrect. Caroleen stated that they have significant issues to address. The top priority is to re-do the resolution and/or by-laws. She had offered to do that at a meeting, and no one would second that motion. The other people in attendance at that meeting were Sherry Lindsey Carlson, Ellen Rae Thiel and George Amman. She noted that there is currently no job description for this position, and asked how one could be written without the input of the board. Commissioner Weber stated that they could develop a job description without board input. Commissioner Notbohm stated that this is done with all departments. Commissioner Notbohm stated that as far as the board is concerned, they have done a heck of a job. They have had some problems with procedural issues, but as far as their

work, he can find no fault with that. They have done a lot with a small budget.

Dave Kirsch asked how the Museum in Whitehall is funded. Commissioner Weber stated that they are privately funded, and may get some help from the City. They are mostly self-funded.

Ellen Rae Thiel stated that she believes that the Whitehall museum is a non-profit. She said that she is on the museum board, and she would have to disagree with Caroleen's comments; she doesn't believe that the board is in a shambles.

Commissioner Lythgoe stated that he isn't sure that if they go to quarter-time if it would have to be posted. Commissioner Weber stated that he doesn't believe that whether they go out for a position advertisement has much to do with the funding level of this job. Commissioner Lythgoe asked how the position is classified now; if it is quarter time. Bonnie stated that she really isn't classified as anything. The county has given the board a flat amount of money, but there were no time requirements on that. Commissioner Weber stated that this needs to be part of the discussion; what they want to classify the position as time-wise, rather than dollar-wise. Commissioner Lythgoe stated that they also need to take Susie's name off of this discussion; the discussion pertains to the position.

Commissioner Notbohm stated that he has always thought a lot of the people who run the museum. He has talked to a couple of the board members, and he feels that there is a need for them to go for their own mill. There may be a time when the County doesn't have the funding for this, but having their own mill would ensure the continuation of the museum. Commissioner Lythgoe stated that he is inclined to go with a half-time position, just because he thinks that there is that much that can be done. If you are going to make it a better museum, you need someone that can work it and be compensated for their work. Commissioner Weber stated that he feels that the Commission has recognized that in the past, as there is a position in place. His concern is that once the museum board comes forward with their projections and feelings of future exhibits, half-time might be short. Commissioner Lythgoe stated that he agrees with Commissioner Notbohm, they will need to try for their own mill levy. Commissioner Notbohm stated that whatever they decide on, they need to think it out for two years, since it will be that long until the next opportunity for a mill levy. He asked how many hours Susie has been working. Commissioner Weber stated that she has basically been donating a lot of time. There were time constraints due to the funds available, but she works many more hours than she charges for. He asked if anyone has any knowledge of how many hours she puts in. Ellen Rae stated that she doesn't know hours, but before an exhibit it is pretty labor intensive getting set up. The last exhibit they had, they were open three days a week 1 – 5, and Susie pretty much did all of those hours.

Commissioner Lythgoe asked what was in the budget for personnel this past year. Commissioner Weber stated that it was \$5000. Commissioner Weber stated that he knows that Kellie Doherty has given copies of job descriptions to the museum board to make recommendations of how the job description should read. The board has also discussed the need for a vision statement and by-laws, and they will be working on that in the future. Ellen Rae stated that they are slated to have a ghost town exhibit that will run from mid-January until June and a Smithsonian covered bridge exhibit will be in from March through May. The board wants the administrator to be working with the public to raise awareness of grant opportunities and preservation. There is currently a state local history initiative that the present administrator is in charge of for the Gold West

region. She also started last year going into the grade schools and talking about local history.

Commissioner Weber stated to answer a question Commissioner Notbohm asked earlier, last year they had budgeted \$5000 and \$3166.81 was expended. The year before that \$3413.87 was expended and the year before that \$2497.44 was expended, so the administrator hasn't worked over the \$5000 limit. Commissioner Lythgoe asked why she would donating time if there is money there to pay her.

Commissioner Notbohm stated that the problem the museum has always had is that they need to commit to things before normal budget time. There have been times when they couldn't commit to things because of the timing. Commissioner Lythgoe moved that in light of the information that Commissioner Weber just shared, that we adopt the quarter-time position for the museum budget. In light of them not using the \$5,000, it would be premature to go to half-time. Commissioner Lythgoe stated that he would fund the increase from economic development. Commissioner Notbohm seconded. The motion carried.

Commissioner Weber stated that it appears that some of our revenues seem to be tailing downward, such a Treasurer's fees. He asked Bonnie if she has any input on this. Bonnie stated that the Treasurer's fees are going down because we have been pretty aggressive on our delinquent taxes, so we have a lot less delinquent taxes out there, which would incur an additional \$25 fee. Bonnie stated that her fees have gone down significantly; most have to do with the economic times and is a reflection of what is happening across the country. The Sheriff's fees are down also, as they aren't getting the amount of prisoners they have in the past. She stated that her fees probably reflect the economic times more than anyone else's, as people aren't buying and selling and therefore recording.

Commissioner Notbohm stated that it would be interesting to know how much money we have lost due to those. Bonnie stated that she can't answer for the other departments, as far as her fees go, they are down about \$3,000/month from what they were last year. Commissioner Notbohm stated that when we get the preliminary budgets, we don't have our taxable valuation. We were very fortunate this year, because we got nearly a half-million in increase from the mill value; that is the good luck part. Bad luck part is that they had to go into the metal mines funds on top of the cuts to make the figures balance. He doesn't envy the Commissioners next year when it comes time to do the budget; hopefully the mines will still be in operation. Commissioner Weber agreed that there are some definite impacts both positive and negative that are coming our way. Commissioner Notbohm stated that as they know, he had a problem with the process of how the budget was done this year. Commissioner Lythgoe came to a meeting with Bonnie with budget cuts and he wasn't involved in any of those discussions or the decisions that were made. When Commissioner Weber came back to work, he met with Bonnie and made further changes. Because of this, he will refrain from voting on or signing the final budget.

RESOLUTION 36-2008 ADOPT FINAL BUDGET AND FIX TAX LEVIES

Commissioner Weber read the resolution as follows:

RESOLUTION 36-2008

ADOPT FINAL BUDGET

**AND
FIX TAX LEVIES FOR JEFFERSON COUNTY
FISCAL YEAR 2008-2009**

WHEREAS, the Board of County Commissioners of Jefferson County, Montana, has compiled and reviewed the proposed budgets for fiscal year 2008-2009 as required by law; and,

WHEREAS, the value of a mill has been determined as \$26,223 county-wide and a value of \$24,364 outside the city limits, with other values as stated and certified by the Department of Revenue of the State of Montana,

NOW, THEREFORE, BE IT RESOLVED that the final budgets for fiscal year 2008-2009, which budget document is on file in the Clerk and Recorder's office, is approved and adopted and is, by this reference, incorporated herein; and

BE IT FURTHER RESOLVED that the Board does hereby fix the following levies to fund said budgets:

| | |
|-----------------------|-------|
| GENERAL | 29.34 |
| ROAD | 17.37 |
| BRIDGE | 4.84 |
| WEED | 5.39 |
| FAIR | 0.00 |
| DISTRICT COURT | 6.12 |
| LIBRARY | 12.98 |
| PLANNING BOARD | 1.71 |
| HEALTH AND SANITATION | 6.28 |
| SENIOR CITIZENS | 1.90 |
| COUNTY AGENT | 0.00 |
| PUBLIC SAFETY | 46.41 |
| MUSEUM | 0.44 |
| EMPLOYEE GROUP HEALTH | 11.55 |
| ENTITLEMENT LEVY | 3.65 |
| SEARCH AND RESCUE | 0.00 |

SPECIAL DISTRICT LEVIES

| | |
|------------------------------|------|
| MOSQUITO #1 - BOULDER | 2.51 |
| MOSQUITO #2 - BOULDER VALLEY | 4.43 |

| | |
|-------------------------------|--------|
| MOSQUITO #3 - WHITEHALL | 8.23 |
| JEFFERSON VALLEY RURAL FIRE | 15.13 |
| MONTANA CITY FIRE | 31.24 |
| JEFFERSON CITY FIRE | 22.13 |
| BASIN FIRE | 42.94 |
| BULL MOUNTAIN FIRE | 27.85 |
| ELK PARK RURAL FIRE | 38.89 |
| WILLOW CREEK FIRE | |
| JEFFERSON VALLEY SOIL & WATER | 1.65 |
| BASIN WATER & SEWER | 370.77 |
| BASIN IMPROVEMENTS | 19.23 |

CITY LEVIES

| | |
|-------------------|---------|
| TOWN OF BOULDER | 178.184 |
| TOWN OF WHITEHALL | 99.68 |

SCHOOL LEVIES

| | |
|--------------------------|--------|
| CLANCY #1 | 131.37 |
| #1-A | 131.37 |
| WHITEHALL #4 | 97.76 |
| BASIN #5 | 47.22 |
| BOULDER #7 | 207.24 |
| CARDWELL #16 | 23.99 |
| WILLOW CREEK #1 | 89.26 |
| THREE FORKS #26 | 83.18 |
| MONTANA CITY #27 | 158.94 |
| MONTANA CITY #27-B | 199.81 |
| JEFFERSON HIGH SCHOOL #1 | 48.15 |
| WHITEHALL HIGH SCHOOL #2 | 31.78 |

COUNTY LEVIES

| | |
|----------------------------|-------|
| COUNTY GENERAL HIGH SCHOOL | 22.00 |
|----------------------------|-------|

| | |
|---------------------------|-------|
| COUNTY GENERAL ELEMENTARY | 33.00 |
| TRANSPORTATION | 4.78 |
| ELEMENTARY RETIREMENT | 20.72 |
| HIGH SCHOOL RETIREMENT | 10.91 |

SPECIAL ASSESSMENT DISTRICTS

| | |
|-------------------------------------|----------|
| SHEEP PREDATORY ANIMAL (per animal) | \$.60 |
| CLANCY FIRE SERVICE AREA | \$ 55.00 |
| BASIN TV | \$ 20.00 |
| BOULDER TV | \$ 8.00 |
| BOULDER TV-COMMERCIAL | \$ 15.00 |
| WHITEHALL TV | \$ 15.00 |
| SOLID WASTE | \$129.69 |
| LIME KILN RD IMPROVEMENT DIST | \$350.00 |

BE IT FURTHER RESOLVED that an additional, annual assessment, as provided for in §7-22-2432, MCA, and as approved by the voters of the district on June 2, 1992, is hereby imposed upon the owners of structures and properties within the Boulder Mosquito District #1, as follows:

- (a) \$20.00 per single-unit dwelling;
- (b) \$20.00 per unit in a duplex dwelling;
- (c) \$ 5.00 per unit in a multi-unit dwelling (other than a duplex);
- (d) \$75.00 per commercial establishment;
- (e) \$50.00 on each irrigated parcel of property that does not contain a dwelling;
- (f) \$15.00 on each non-irrigated parcel of property that does not contain a dwelling.

WHEREAS, §7-6-4031, MCA makes provision for the authorization of a designated official to transfer appropriations between items within the same fund; and

WHEREAS, §7-6-4006 (3), MCA makes provision for appropriation adjustments,

NOW, THEREFORE, BE IT RESOLVED that the Clerk and Recorder be designated to make budget transfers and adjustments with the approval of the governing body, and shall submit at minimum quarterly recommended budget transfers and adjustments.

DATED this 16th day of September, 2008, effective for Fiscal Year 2008-2009.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. Commissioner Lythgoe asked what the transportation mill is. Garry Pace, Superintendent of Schools, stated that this is for buses or whatever the transportation director contracts. Commissioner Weber noted that the Lime Kiln RID is listed, but the South Hills, Saddle Mountain and Big Dipper RIDs aren't. Bonnie stated that they are listed in the budget, but don't need to be included in the resolution; they could be if they wish. The motion carried, with Commissioner Weber and Commissioner Lythgoe voting aye and Commissioner Notbohm abstaining.

CANCEL MEETING OF SEPTEMBER 23RD DUE TO MACo CONFERENCE ATTENDANCE

Commissioner Weber stated that he and Commissioner Lythgoe will be attending the MACo Conference in Hamilton on the 23rd. He moved to cancel the meeting of September 23. Commissioner Lythgoe seconded. The motion carried.

DISCUSS AND DECIDE ON JOE SCHMAUS' REQUEST TO BE REMOVED FROM THE SOUTH HILLS RID/RMD

Joe Schmaus stated that he is continuing to request that he be removed from the assessment for the South Hills RID/RMD. He, as well as Bonnie Bompert, feel that they are being unfairly assessed, as they receive no benefit from the road improvements. He presented the Commission with a map prepared by Great West Engineering when the district was formed, which outlines the district. He has highlighted the property owned by his father and himself. He noted three points of interest that he has circled on the map, other landowners in the area that were not included in the district. He feels that the assessment was done improperly, as it is supposed to be based on benefit received. He noted that 7-12-2165, MCA allows the Commission to correct, reassess and re-levy the tax and assessment. Joe stated that he knows that this particular statute gives the board the authority to vote today to remove them from the district. Commissioner Weber stated that the board chose to make this district using the assessment process that each lot, tract, or parcel of land in the district served by a utility connection may be assessed an equitable lump sum based on the bid price. Each lot is where the equity that receives benefit. Some of the things that weighed on the decision of whether Joe's property is included in the district and

benefited is the fact that he has stood in front of the Commission and said that he uses the road to access his property, he uses the gate that Mr. Whiting has put up, and he had no problem opening and closing the gate; the fact that he paid for and received permission to do work on that road; hiring a contractor to grade up there and showing intent and probable use of that road; the fact that he has admitted to using that road and has paid to upgrade the road weighs heavy on his mind on whether or not he uses the road. Joe stated that at the time that any improvement was done on the road it wasn't County money that was being spent. It was his own money, because that road was in such bad shape that something had to be done there. Commissioner Weber asked Joe for what purpose did the work need to be done. Joe stated that it was for access, but not only for himself, but also for his father. Joe stated that the benefit he receives is much different than the benefit Commissioner Lythgoe receives for that portion of South Hills. Commissioner Weber stated that it is hard to say that he doesn't benefit from that road when he has admitted that he uses it for access.

Commissioner Notbohm asked Joe what he is paying into the district at this time. Joe said that he believes that they are being assessed the highest amount in the district, as they have between six and eight parcels. Commissioner Notbohm stated that one of the reasons that he tends to agree with Joe is the loss of access across the Hill property. He further stated that the County will never be able to afford to fix Holmes Gulch up there; it would cost too much to do it. Commissioner Notbohm stated that it isn't really fair, what Joe is being assessed; he doesn't agree that he should necessarily get out of all of them. Joe stated that if they could get a reduction, that would show some concern from the Commission. Whoever drew this map and included him and not other, such as the Hills and Anders, was just unfair.

Commissioner Weber noted that Hill and Anders don't have access onto Holmes Gulch or South Hills. Joe stated that the Hill property touches Holmes Gulch. Commissioner Weber agreed that the property touches, but they do not have access onto the road. Commissioner Weber stated that this was a difficult district to form the boundary, but the fact remains that Joe uses the road for access and he benefits from the improvements. Joe stated that he does get some benefit, but he doesn't get equal benefit with those people that abut the road. Commissioner Notbohm asked Joe where he lives. Joe stated that he lives in East Helena. Commissioner Notbohm stated that this is one of the problems that he has; if he had a home or a cabin there, it would be different.

Commissioner Lythgoe stated that he has property on South Hills Road. His "mistake" was subdividing. He has no intention of selling his pasture, but he is now being assessed for four lots. He doesn't necessarily think that this is fair, but fair or not, by state law, this is by far the fairest way for everyone to be assessed. He understands Joe's situation, as he is in the same one. Joe stated that he is sure that there are others that have gone before the Commissions in their counties with the same issues. Joe stated that he doesn't feel that he is being assessed fairly and there are provisions in statute to deal with this. Commissioner Weber stated that Joe's argument is under 7-12-2165, MCA, procedure to correct assessment, re-levy and collect tax, and his feeling is that the Commission improperly included his property into the RID and he would like it rectified. Joe stated that his position is that the method used to assess all of the tracts in the RID was equal, which would be great if all benefitted equally, but he doesn't feel that he benefits equally. Commissioner Lythgoe stated that there are some people that live 200 feet from the frontage road that pay the same amount as everyone else. They certainly don't benefit the same as the person who drives three miles on that road, but this was the most fair way to assess everyone in the district. Commissioner Notbohm said that what Commissioner Lythgoe stated is

true; there are people on either end of the project that get to enjoy a very small portion of the improvements and will never use the rest of it, but they couldn't be left out. He said that another alternative for Joe is to sell one or two properties, pay off the assessment and save the interest for the next 20 years. Commissioner Lythgoe stated that it isn't perfect, but they are only allowed to do this a limited number of ways; this was the most fair for everyone.

Commissioner Lythgoe stated that the issue is that if they forgive the Schmaus' and the Bomparts, then Jefferson County is going to have to pick up the costs, so that is something they have to consider. Joe stated that the section of law that he gave them – 7-12-2165 – outlines ways to deal with this. He doesn't want to short his neighbors, but it angers him that he has to pay the same amount as someone that lives right on the road. Commissioner Lythgoe stated that the problem is that if they let him out of this, then someone in Whitehall will be paying for their improvements.

Commissioner Lythgoe stated that he isn't comfortable with making a decision today; he would like to talk to Matt. He would ask that this be moved two weeks out. Commissioner Weber seconded. The motion carried.

CLAIMS

A list of claims was presented for approval. All claims were approved as presented. There were no comments.

Commissioner Lythgoe moved to adjourn. Commissioner Notbohm seconded.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER